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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,635	03/19/2001	Martijn Henri Richard Lankhorst	NL 000142	9985

24737 7590 09/22/2003

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

COLON, GERMAN

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 09/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/811,635

Applicant(s)

LANKHORST ET AL.

Examiner

German Colón

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 6-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 7-13 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The Amendment, filed on June 30, 2003, has been entered and acknowledged by the Examiner.
2. Cancellation of claim 3 has been entered.
3. Addition of claims 7-13 has been entered.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Yorifuji et al. (US 4,972,118).

Regarding claim 1, Yorifuji discloses a low-pressure mercury-vapor lamp comprising a discharge vessel **11**,

which discharge vessel encloses a discharge space **17** provided with a filling of mercury and an inert gas in a gas-tight manner,

which discharge vessel contains an amalgam **27** which communicates with the discharge space **17**,

and the low-pressure mercury-vapor discharge lamp comprises discharge means **25** for maintaining an electric discharge in the discharge space **17**, wherein the amalgam **27** comprises a

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bismuth-lead compound having a lead content (Pb) in the range between $35 \leq \text{Pb} \leq 55$ at % (see Col. 2, line 28), a bismuth content (Bi) in the range between $45 \leq \text{Bi} \leq 65$ at % (see Col. 2, line 28), and a mercury content (Hg) of 0.5 at % (see Col. 3, line 17). The Examiner notes that Yorifuji discloses the wt % of Hg, Pb, and Bi; however, their atomic weights are very similar (200.59 u, 207.20 u, 208.98 u, respectively), rendering the at % substantially the same as the wt %.

Referring to claim 2, Yorifuji discloses the lead content laying in the range between $40 \leq \text{Pb} \leq 50$ at % (see Col. 2, line 28) and the bismuth content laying in the range between $50 \leq \text{Bi} \leq 60$ at % (see Col. 2, line 28).

Referring to claim 6, Yorifuji discloses an amalgam **27** for use in a low-pressure mercury-vapor discharge lamp.

Allowable Subject Matter

6. Claims 4 and 7-13 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter:
Applicants' arguments on Paper #9, Page 9, lines 17-22 were persuasive.

Response to Arguments

8. Applicants' arguments file on June 30, 2003 with respect to claims 1, 2 and 6 have been fully considered but they are not persuasive.

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9. Applicants argue that Yorifuji does not suggest or anticipates the mercury content within the claimed range with sufficient specificity, and that Yorifuji is directed only to a mercury content between 1 and 12 wt %.

The Examiner notes that Yorifuji discloses an amalgam where the amount of Hg, Pb, and Bi are given in wt %; however, since their atomic weights are very similar (200.59 u, 207.20 u, 208.98 u, respectively), the at % is equivalent to the wt %.

The Examiner concurs with applicants that Yorifuji is directed to an amalgam having a mercury content in the range between *about* 1 and 12 at %. However, it has been held that a range of “about 1 at % to 12 at %” allows for concentrations slightly above and *below* the claimed range. In re Woodruff, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990) 2144.05.

Moreover, Yorifuji does *anticipate* an amalgam having a lead content in the range between $35 \leq \text{Pb} \leq 55$ at %, a bismuth content in the range between $45 \leq \text{Bi} \leq 65$ at %, and a mercury content in the range between $0.05 \leq \text{Hg} \leq 0.75$ at %. Col. 3, line 17 discloses a mercury content of 0.5 at %, which lies within the claimed range with *sufficient* specificity. Thus, Yorifuji teaches the claimed invention been manufactured and tested, and therefore, a proper basis of rejection over anticipation is established.

For the reasons stated above the rejection of claims 1,2 and 6 is deemed proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to German Colón whose telephone number is 703-305-5987. The examiner can normally be reached on Monday thru Friday, from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 703-305-4794. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


gc


ASHOK PATEL
PRIMARY EXAMINER